

## **Notes from a Meeting of the Hamilton Community Preservation Committee (CPC) Subcommittee on By-Laws & Operating Procedures 12/18/14 at Hamilton Town Hall**

Attendees: Jay Butler, Tom Catalano, Edwin Howard, Rachel Meketon

This was the first meeting of this CPC subcommittee which was formed as a result of a recommendation by Rachel during the December 11, 2014 CPC Committee meeting. All members of this subcommittee were present for this first meeting. There was no prepared agenda due to the planned informal nature of the discussions. During the meeting, Rachel distributed copies of:

- MA Community Preservation Act, General Laws Chapter 44B (2010 Official Edition), as amended by St. 2012, c. 139, 69-83
- Hamilton Town By-Law for the Community Preservation Committee, Chapter XXVII
- 2013 Community Preservation Plan (basic document without appendices)
- List of Proposed Revisions by Jay Butler to the Town of Hamilton Community Preservation Funding Guidelines for Project Submission, dated 12/1/14
- CPC Open letter to all Staff, Boards, and Committees of the Town of Hamilton, dated July 2008, introducing the draft of the 2008 Community Preservation Plan

### **Community Preservation Plan**

The CPC Plan is a 35+ page, all inclusive, document that contains: a history of Hamilton's CPC experience; the MA State CPA Act; the Hamilton CPC Town By-Laws; list of all funded projects since the inception of the CPC; detailed descriptions of the areas where CPC monies can be used; and application forms for establishing project eligibility and funding along with submission guidelines. Interspersed among these items are elements of the CPC Committee operating procedures, although they are not specifically identified as such.

The meeting began with a discussion on this CPC Plan. Although the 2008 version of the plan is posted on the CPC website, the plan has been updated since the initial 2008 version. **Rachel will thus post the latest version on the website.** Regarding this plan, the discussions in this meeting focused on: concerns over two sections of the Town CPC By-Laws; recommendations for better layout of the document; and proposed changes to the CPC project eligibility and funding request application, submission guidelines.

### **Hamilton CPC By-Laws Chapter XXVI Community Preservation Committee**

- Ed Howard began by reiterating a comment he made at the last meeting of the full CPC Committee that the Hamilton CPC By-Laws, Section 2, Duties, states in part, “....the Committee shall hold one or more public informational meetings on the needs, possibilities and resources of the town regarding community preservation, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.....” Ed felt that we should be holding such meetings in accordance with the By-Law. Tom pointed out that the initial issuance of the CPC Plan in 2008 referenced several recently completed documents and these provided the basis for much of the goals and needs in the plan. These documents were:
  - Town Master Plan
  - Town Open Space and Recreation Plan
  - Heritage Landscape Inventory (May 2005)
  - Hamilton’s Affordable Housing Production Plan (June 2006)

The issuance letter referenced above announced a planned public meeting to be held in September in accordance with the By-Law. (We did not discuss whether this happened or not.) Tom noted that these plans originally referenced have continued to be updated and have provided guidance to the CPC. Jay pointed out that the CPC Committee places an article in the Chronicle annually soliciting CPC grant requests. Finally, Tom noted that the agenda for the monthly CPC Committee meetings are posted 48 hours prior to the meeting and, unlike some other Town Boards and Committees, all meetings are not only open to the public but that all visitors attending these meetings are given the opportunity to speak and ask questions immediately following the agenda item of interest. In a tangential departure, Ed noted that he felt the 48 hour advance agenda posting at Town Hall in accordance with MA Open Meeting Laws was insufficient to keep the public informed. Tom noted that we could consider other alternatives to publicize our activities and asked **Rachel to investigate the cost of mailing a copy of the latest CPC Plan to all residents with the cost to be covered by our administrative reserves.**

After much discussion, all agreed we should host an all Town Boards and Committee, public meeting to solicit ideas for potential CPC grants. **Tom Catalano and/or Rachel will ask Town Manager Michael Lombardo when we should host such a meeting. The full committee will then be asked to vote on this at their next meeting on January 22, 2015. Rachel will place this item on the agenda.** (Subsequent to this meeting, Rachel produced a public info notice announcing that the recently formed Beverly CPC Committee were holding their first public needs assessment on January 22, 2015 which unfortunately is the same date as the next Hamilton CPC Committee meeting.)

- Jay Butler pointed out the Hamilton CPC By-Law, Section 1, Establishment, Membership, Terms of the CPC Plan that states, in part, “..... Any member may be removed with or without cause by the Appointing Committee.....” Ed Howard was quite concerned over this provision as it would appear that the Selectmen could arbitrarily replace any member of the CPC Committee, at any time, without cause, if they were felt that person were not voting in concert with the wishes of the Selectmen. Ed’s view was that the CPC could theoretically be viewed as a “rubber stamp” committee for the Selectmen. And further, the idea that a committee member could be removed without cause, except at the end of his/her appointed term seemed contrary to every notion of corporate board law. While Jay pointed out that this situation has never happened, Tom noted that theoretically it could. Tom noted that members of the CPC committee that represent the Historical District Commission, Conservation Commission, Planning Board, Selectmen, and Housing Authority are appointed by those respective committees and that if their representative was removed, they would need to recommend a replacement. Jay noted that detailed discussion of this area may bring up the potential need for term limits but that was not discussed in this meeting. A quick review of the MA CPA showed that this statement was not contained therein and that therefore it was developed as part of the original establishment of the Hamilton CPC. No one seems to have noticed this until now. **As part of pursuing a better understanding, Rachel will query the MA CPA Coalition and Hamilton Town Counsel as to this statement and whether or not it is commonplace.** No other actions were discussed other than Ed will think more on it.
- Rachel introduced a discussion on a proposed better layout for the CPC plan. Her initial recommendations had previously been sent out as an email power point attachment to the CPC Committee prior to the December 11, 2014, and were discussed at that meeting. All agreed she was on the right track. (Subsequent to this meeting, Rachel told Jay Butler that she was looking over the CPC plans for other MA Towns to see if she could capture some Best Practices. Worthy of note was West Tisbury that captured their goals in a more focused statement of that Town’s concerns.) One other area of note was that the subcommittee agreed that we should identify those portions of the CPC Plan and group them accordingly as the CPC Committee Operating Procedures. Items that need publication are that the Committee meetings allow ample time for public comment on all project requests before the board and that there are no executive sessions.

**Proposed Revisions to the Town of Hamilton Community Preservation Funding Guidelines for Project Submission dated 12/1/14 by Jay Butler**

While these guidelines are part of the CPC Plan, they are posted as a separate document on the CPC website. Jay's initial recommended revisions formed the agenda for this subcommittee meeting and are shown in red text along with the current version in black. Modifications and notes from this subcommittee meeting are shown in purple. It was recognized that the CPC Committee can change these guidelines by committee vote.

***Proposed changes in italicized red from Jay Butler 12/1/14***

Proposed changes are in underlined purple (The color was Rachel's idea.) from the December 19, 2014 Subcommittee meeting.

1. The application process for Community Preservation Funding is twofold. The Application for Community Preservation Eligibility will introduce your proposal to the Committee so that it can determine the project's eligibility and offer guidance. *A consultation with the Mass CPA coalition may be necessary to do establish eligibility.* If the Committee agrees that your proposal is eligible, *and that you as the petitioner is qualified to represent the "stakeholders" who would be affected by and/or enjoy completion of the proposed effort, an Application for Community Preservation Funding must be completed.* The Committee will review both the application for eligibility and that for funding according to the General Criteria outlined below. For those applications petitioning for acquisition of property, there will need to be close coordination/discussions between the Town Manager and Selectmen before detailed discussion can proceed.

*Delete current number 2, below, and add new one in italicized red below.*

2. In order to be considered for recommendation for the spring Annual Town Meeting, you must submit an Application for Community Preservation Eligibility no later than January 2, 2014. Final Applications for Community Preservation Funding must be received no later than February 13, 2014 to be considered for recommendation at the spring Annual Town Meeting, except for urgent situations or other exceptional circumstances.

*2. The CPC Committee will annually establish deadlines for receipt of both the Eligibility and Funding Applications for consideration at both the Annual Town Meeting and Special Town Meeting if applicable.*

3. Each application must be submitted to the Community Preservation Committee (CPC) using the Application for Community Preservation Funding/Eligibility as a cover sheet. Applications must be filled out completely, with each question fully answered.

4. Applications should be submitted in ten (10) copies of all project materials to the attention of *Rachel Meketon*, Coordinator, Community Preservation Committee, Town Hall, P.O. Box 429, 577 Bay Road, Hamilton, MA 01936.

5. Please include any maps, diagrams, and/or photos that pertain to your project.

6. All applicants will be expected to be present at a CPC meeting to answer questions about their proposals. The CPC will set a public meeting schedule to review project proposals. *in January and February*. Applicants will be notified regarding the date of the meeting they should attend. *(Delete above phrase in red.)*

*Add new instructions below in italicized red and underlined purple:*

*7. Large, multi-faceted proposals where initial estimates of actual costs would be difficult must be submitted in the form of a minimum of two proposal grants – one for initial engineering studies, and a later one for the actual effort based on the completion of the earlier study. Note that in the case where the applicant will fund the engineering phase, only one request will be required. When the two-request approach is used, it will be necessary to include an estimate for the entire project with the request for engineering studies.*

*8. Evidence must be provided that opportunities for other sources of financial support have been actively pursued, including fundraising, other grants, and government subsidies.*

*9. Financial quotations (Delete “Financial quotations” and replace with “Estimated implementation costs”) for the effort must show evidence that reasonable attempts to get the lowest dollar quotation for the proposed effort have been pursued.*

*10. Prior to approval of a grant proposal, the CPC Committee must reach agreement on how to pay for it, e.g., direct payment vs. municipal bonding.*

*11. There must be broad-based community support for the grant, including evidence that there is town government support, or at least no opposition to the grant, from all relevant town entities, e.g., Police, Fire, DPW, Recreation, Planning Board, Conservation Commission, Historical District Commission, etc.*

*12. Approval of the grant request will be determined by a vote by a simple majority of the CPC Committee at a meeting with the specified quorum, i.e., 5 members out of the current total of 9. Thus, a CPC Committee meeting with only 5 members present can decide the fate of any grant request, regardless of its complexity.*

NOTE: While no one disagreed that this is how the operation of the CPC Committee is set up, there was universal concern that an important project could be prevented from being voted at Town Meeting by only 3 members of the Committee. Tom suggested that perhaps we consider establishing a super majority provision for certain projects based on financial size or whether or not they would require bonding. Recognizing that this idea would require a change to the By-Laws thus entailing a Town Meeting vote, Rachel was asked to query Town Counsel for an opinion on doing this.

NOTE: Jay brought up the question regarding the situation whereby a project application discussion might span several meetings and the case where not all members of the CPC were in attendance at all of these meetings. For some Town Boards, a Committee member must have been present for all formal discussions in order to be able to participate in the final vote. The subcommittee was told that this was the “Mullin Rule”, based on a legal ruling of that name. Rachel was asked to look into the rule with Town Counsel and its applicability to the CPC Committee.

NOTE: Jay also noted that while the CPC does not operate according to Roberts Rules, he wondered if there were another set of meeting protocols that we should be following, perhaps those that are used for Town Meeting. Rachel was asked to research this as well.

NOTE: Tom mentioned that we should develop a simple, virtual thermometer that can provide the Committee with information as to how much of a proposed project can be bonded. In this way the Committee can recognize the potential consequences of any proposed bond for a project. This visual should also contain estimated financial projections of incomes and reserves for perhaps 5 years.

*Renumber the remaining items 13 - 16.*

**13.** The CPC will discuss its project recommendations with the Selectmen and Finance Committee before preparing a Warrant Article for Town Meeting approval, including the funding format (i.e. bond)

**14.** If approved, project funding would be available *at a date to be established* following the *Special or* Annual Town Meeting. *(Note changes in italicized red.)*

**15.** Following approval at Town Meeting, grantees will receive a formal grant award letter informing them of quarterly reporting deadlines, billing procedures, project schedules, and the two-year deadline for which projects must be completed.

**16.** It will be expected that all CPA projects commence within six months of receipt of the grant award letter.

*Add new criteria:*

*17. The CPC Committee reserves the right to cancel any grants that do not meet either the six month start date or the two year completion requirement.*

Next meeting of the subcommittee is TBD.

Jay Butler  
Ad Hoc Secretary